

1 VIRGINIA:

2 IN THE COUNTY OF WASHINGTON

3 VIRGINIA DEPARTMENT OF MINES, MINERALS AND ENERGY

4 VIRGINIA GAS AND OIL BOARD

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9 JULY 15, 2003

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12 APPEARANCES:

13 MASON BRENT - REPRESENT GAS & OIL INDUSTRY

14 KENNETH MITCHELL - PUBLIC MEMBER

15 BILL HARRIS, PUBLIC MEMBER

BENNY WAMPLER, DIRECTOR OF THE DMME & CHAIRMAN

16 JIM MCINTYRE, CITIZEN APPOINTEE

17 SHARON PIGEON, COUNSEL FOR THE BOARD WITH THE ATTORNEY
GENERAL'S OFFICE

18 BOB WILSON, DIRECTOR OF THE DIVISION OF GAS & OIL AND
PRINCIPAL EXECUTIVE TO THE STAFF OF THE BOARD

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***Copy of agenda attached

1 BENNY WAMPLER: Good morning. My name is Benny
2 Wampler. I'm Deputy Director for the Virginia Department of
3 Mines, Minerals and Energy, and Chairman of the Gas and Oil
4 Board. I'll ask the Board members to introduce themselves,
5 starting with Mr. Brent.

6 MASON BRENT: My name is Mason Brent. I'm from
7 Richmond and I represent the gas and oil industry.

8 BILL HARRIS: I'm Bill Harris from Big Stone Gap
9 and a public member.

10 KEN MITCHELL: My name is Ken Mitchell from
11 Stafford, Virginia. I'm a public member also.

12 SHARON PIGEON: I'm Sharon Pigeon. I'm with the
13 office of the Attorney General.

14 JIM MCINTYRE: Jim McIntyre, from Wise, Virginia.
15 I'm a public representative.

16 BOB WILSON: I'm Bob Wilson. I'm the Director of
17 the Division of Gas and Oil and principal executive to the
18 staff of the Board.

19 BENNY WAMPLER: The first item on the agenda is a
20 quarterly report on the Board escrow account. Mr. Wilson, do
21 you have information to present on that?

22 BOB WILSON: Yes, sir. I've handed each Board
23 member a copy of the quarterly report that was supplied by
24

1 Wachovia/First Union, who is, of course, our escrow agent.
2 Opening balance for this quarter was \$6,948,114.37. We
3 received total deposits of \$479,601.20, interest of
4 \$18,260.86. During the quarter we paid out in disbursements
5 \$151,563.84, and it leaves us with a balance as of June 30th
6 of \$7,294,412.59. Again, the monthly fees will be extracted
7 in August of this year for the six month period. Our interest
8 rate during this time was 1.12% starting in April, and
9 actually tipped up ever so slightly in June to 1.15%, which
10 is at least going in the right direction for a change.

11 I would like to also point your attention to the
12 other handout I gave here that is the twice yearly report of
13 disbursements. They refer to them as refunds. You can see
14 that, during the first half of the year, we have disbursed
15 \$414,824.65. Most of these were done in the earlier part of
16 the half year.

17 I have also included in the handout just for your
18 perusal a draft showing the general accumulation of escrowed
19 funds and the cumulative disbursements through time. This
20 starts back in '98 and proceeds through the end of the last
21 quarter. You can see that we're...the account, even taking
22 into consideration the normal flow of disbursements, tends to
23 accumulate at about the same amount and has done so

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1 historically over this period of time.

2 I would also like to address a couple of things
3 that were brought up at our last report that we had from the
4 escrow agent. There was a question about exactly how the
5 interest rate was determined and how it was paid. I had
6 speculated that it was actually tied to prime. That was not
7 correct. The interest rate is tied to a ninety day T
8 bill...treasury bills. It's actually the...it's kind of a
9 rolling average of the previous ninety day treasury bill
10 rate. And according to the gentleman who's in charge of
11 government and institutional banking for Wachovia, that rate
12 is at a current forty-five year low, which explains the
13 1.15%.

14 The other questions that we had at the last report,
15 the January deposit for this year, if you remember, was a
16 rather low figure, and there was questions as to what that
17 indicated, if anything. We went back and looked at that, or
18 had the bank go back and look at that, and apparently this
19 had to do with the timing of deposits coming in. I've looked
20 back through the reports that we've gotten over the last
21 period of time and apparently if you have a situation where
22 the previous month's deposits came in early and the next
23 month's deposit come in a little late relative to the average

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1 time of arrival, then you'll have a low month. We have a
2 month on this quarterly report which is in excess of twice
3 the preceding months. So, they fluxate...fluxate rather
4 wildly according to when these deposits come in. The bank
5 did check and they found no indication there was anything
6 unusual or extraordinary about that except the fact that
7 except the fact that it did turn out to be a low number. And
8 they speculated as well that it had something to do with the
9 holiday period and the way checks were being cut and sent and
10 when they actually arrived at the bank.

11 The other thing that we discussed in the previous
12 report was our orders and what they require relative to
13 deposit of funds into the escrow account. All the orders
14 state that escrowed funds will be deposited into the escrow
15 account within sixty days of the end of the reporting month.
16 In other words, the revenues generated for the month of
17 July, for instance, would be due in before the end of
18 September, basically. So, there's a sixty day lag time there
19 and that's pretty consistent with normal reporting and paying
20 of any royalty owner.

21 I think that pretty much addresses those questions.
22 And that's all I have.

23 BENNY WAMPLER: Any questions from members of the
24

1 Board?

2 KEN MITCHELL: Just an internal question, Mr.
3 Chairman. The sixty day lag time, is that...is that
4 something that...that can be changed by us or by the State
5 or...it just seems to me that we're losing out on what I
6 would say a considerable amount of interest.

7 BOB WILSON: Well, this...this is...I think was
8 changed earlier on. I went back and looked at some of the
9 very early orders. They actually had a fifteen day period on
10 there, which is a total impossibility. Generally, what
11 happens, the companies will know their total production by
12 the end of the month. The meter readings and such have to go
13 through a process. There's a substantial process involved.
14 The checks don't come in from their purchases right away
15 either, of course, until all of this is resolved with the
16 amount put into the sales pipeline and this sort of thing.

17 Actually, sixty days is probably, in my opinion, a
18 pretty realistic time frame to be able to do that and comply
19 with the orders. Yes, to answer the question, we would could
20 change it because it is in the Board's order. I would think
21 that we'd need some bit of research to see exactly what was
22 possible if we did that. Again, from personal experience, I
23 know that royalty payments usually lag the production month

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1 by at least one full month and usually more than that, and
2 this is when it's going directly to individuals or escrow
3 account or anything else.

4 Again, I think it's safe to assume that the
5 payments are going to the royalty account...I mean to the
6 escrow account at the same time that they're going to all
7 royalty owners. I would, again, speculate that it would be
8 an accounting nightmare to try to separate out portions of
9 your royalty payments to hold as opposed to cutting a check
10 for every royalty that's coming out of a particular unit on
11 a particular day. Again, that's something we'd have to
12 verify.

13 KEN MITCHELL: Food for thought.

14 BOB WILSON: Sure.

15 BENNY WAMPLER: Other questions from members of the
16 Board or comments?

17 BILL HARRIS: Mr. Chairman---.

18 BENNY WAMPLER: Mr. Harris.

19 BILL HARRIS: ---this is actually just for my own
20 personal information. The definition...well, they say, "I
21 have included a high level quarterly overview." Is there
22 somebody who is in banking that can tell me what that means?
23 A high level...I mean, what...as opposed to what?

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1 MASON BRENT: It means very little detail.

2 BILL HARRIS: So a high level is actually here...so
3 a low level is actually...okay, it's opposite of what I would
4 have thought. But, okay, that's why I wondered about the
5 language. Okay, thank you.

6 BENNY WAMPLER: Other questions or comments?

7 (No audible response.)

8 BENNY WAMPLER: Are you okay with the discussion on
9 the sixty days?

10 KEN MITCHELL: Yes, sir. Uh-huh. Uh-huh.

11 BENNY WAMPLER: All right. The next item on the
12 agenda, I understand that there has been some switching
13 around here and the folks have agreed since Equitable has one
14 case on the agenda to move to number nine of the Board's
15 agenda item, and I'll go ahead and call that, a petition from
16 Equitable Production Company for pooling of a coalbed methane
17 unit VC-505206. We'd ask the parties to address...that wish
18 to address the Board in this matter to come forward at this
19 time. This is docket number VGOB-03-07/15-1164.

20 TONY WILHOIT: Mr. Chairman, my name is Tony
21 Wilhoit, the law firm of Wilhoit and Kiser, representing
22 Equitable Production Company in connection with this
23 application. First of all, I would like to thank Mr. Swartz
24

1 and the Board for allowing us to move up on the docket. He's
2 not nearly the villain that Mr. Kiser says he is.

3 MARK SWARTZ: Give me time.

4 TONY WILHOIT: Other than that, Mr. Chairman, I
5 have the Affidavit of Mailing, the Affidavit of Publication
6 with the Notice. Can we submit that to you at this time?

7 BENNY WAMPLER: Also, the record will show there
8 are no others. So, you may proceed.

9 TONY WILHOIT: Thank you.

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14 DON HALL

15 having been duly sworn, was examined and testified as
16 follows:

17 DIRECT EXAMINATION

18 QUESTIONS BY MR. WILHOIT:

19 Q. Would you state your full name for the
20 record, please?

21 A. Don Hall.

22 Q. How are you employed, Mr. Hall?

23 A. I'm employed by Equitable Production Company

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1 as a district landman.

2 Q. Have you ever appeared before this Board
3 before?

4 A. Many times.

5 Q. I thought they might know you and familiar
6 with your job and what you do. Are you familiar with the
7 application that your company has filed in connection with
8 VC-505206?

9 A. Yes.

10 Q. Are you asking the Board to enter an order
11 pooling certain interest within the designated unit you're
12 asking them to form?

13 A. Yes.

14 Q. All right, sir, how big is that unit?

15 A. It's a sixty acre coalbed methane unit.

16 Q. Is it depicted on Exhibit Eight to the
17 application?

18 A. That's correct.

19 Q. And are you asking the Board to pool certain
20 unleased interest in what has been designated as Tract 2 on
21 that plat?

22 A. That's correct.

23 Q. All right, sir. Does Equitable Production
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1 Company own drilling rights in this area?

2 A. We do.

3 Q. And prior to filing to this application, did
4 you make an effort to try and contact these unleased parties
5 to enter into a voluntary agreement?

6 A. Yes.

7 Q. Were you able to do that?

8 A. No.

9 Q. All right. At the time of filing this
10 application, or the time of this hearing today, what is the
11 interest that Equitable owns in the gas estate?

12 A. We have 96.92% in the gas estate.

13 Q. And do you own an interest in the coal
14 estate?

15 A. We have a 100% in the coal estate.

16 Q. These unleased parties that are set out in
17 Exhibit B to the application, are they all the unleased
18 parties at this time?

19 A. Yes.

20 Q. Do you know how much interest they represent
21 as being unleased?

22 A. 3.08%.

23 Q. And have you made diligent efforts to try
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1 and contract these people?

2 A. We have.

3 Q. And have you used the usual sources to try
4 and identify them?

5 A. Yes.

6 Q. And is it your personal opinion then that
7 due diligence was used to try and contact them?

8 A. Yes.

9 Q. Were you able to contact any of those
10 people?

11 A. We...the I. B. McReynolds heirs, we were not
12 able to find any. In the process of filing this application,
13 we notified Mr. Lowell Counts, who had a piece of property on
14 which we were planning the access road to this. Mr. Counts
15 came forward at that time and said that he represented the
16 heirs, or the known heirs, of I. B. McReynolds through a
17 corporation that he had formed known as CNR Associates. So
18 we began to deal with Mr. Counts after the filing of this
19 application. We...he has given us...I have copies of it
20 here. If you'll pass those out.

21 (Copies are distributed.)

22 A. He has given us a document that he has
23 recorded in the Courthouse saying that he's the

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1 representative of the known I. B. McReynolds heirs. But we
2 have no background other than this one document to indicate
3 that who these I. B. McReynolds heirs are...or if they are I.
4 B. McReynolds heirs. So, to cover all the bases, we listed
5 them as I. B. McReynolds unknown, and we also notified Mr.
6 Counts of this hearing, if indeed he does represent some of
7 the I. B. McReynolds, he was notified to that effect.

8 Q. All right, sir. As far as the other unknown
9 heirs, they were notified by publication?

10 A. That's correct.

11 Q. All right, sir. In connection with this
12 application, are you familiar with the market value of the
13 drilling rights in this and the surrounding area?

14 A. Yes.

15 Q. Could you advise the Board what they may be?

16 A. Five dollar bonus, a five year term and one-
17 eighth royalty.

18 Q. And based on your familiarity with oil and
19 gas leases and other agreements in the area, does this...do
20 these terms represent the fair market value and is fair and
21 reasonable compensation for drilling rights within the unit?

22 A. They do.

23 Q. And based on the response, if not
24

1 voluntarily agreed to lease, is it your recommendation that
2 the order include the statutory rights or election of
3 participation, receiving a cash bonus or being a carried
4 interest to these respondents?

5 A. That's correct.

6 Q. And do you recommend that the elections by
7 the respondent be sent to you at your company in Charleston,
8 West Virginia?

9 A. Yes.

10 Q. Would that be attention Melanie Freeman?

11 A. That's correct.

12 Q. Is that address to be used for all
13 communications regarding this order?

14 A. Yes, it is.

15 Q. All right, sir. And are you asking the
16 Board to include the usual language in the order regarding a
17 period of time to respond to the order and then with their
18 failure to respond, it would be deemed to be leased and so
19 forth?

20 A. Yes.

21 Q. All right, sir. Who should be name the
22 operator under this unit?

23 A. Equitable Production Company.

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1 Q. Are you familiar with the plan of
2 development?
3 A. Yes.
4 Q. What is the formation that you intend to
5 drill to?
6 A. The coalbed seams...all coalbed seams.
7 Q. And what's that total depth?
8 A. The total depth is 2,036 feet.
9 Q. Will this be sufficient to penetrate the
10 common sources and test the subject formation?
11 A. Yes.
12 Q. Do you have an estimate of what the reserves
13 in the unit would be?
14 A. 400 million cubic feet.
15 Q. And are you familiar with the costs in this
16 proposed initial unit under your plan of development?
17 A. Yes.
18 Q. Has an AFE been prepared and authority for
19 expenditure been prepared and submitted to the Board?
20 A. Yes.
21 Q. Are you familiar with the preparation of it?
22 Are these...was this prepared with regard to known costs in
23 the area?
24

1 A. Yes.

2 Q. Does it represent a reasonable estimate of
3 those costs?

4 A. It does.

5 Q. What would be the dryhole cost?

6 A. The dryhole cost is a \$100,044.

7 Q. And if the well is completed, what would the
8 completed well cost be?

9 A. \$211,677.

10 Q. Do you anticipate there might be a multiple
11 completion?

12 A. We do.

13 Q. And does this AFE include a reasonable
14 charge for supervision?

15 A. It does.

16 Q. And finally, in your professional opinion,
17 would the granting of this application be in the best
18 interest of conservation, the prevention of waste, and the
19 protection of correlative rights?

20 A. Yes.

21 TONY WILHOIT: That's all we have, Mr. Chairman.

22 BENNY WAMPLER: Questions from members of the
23 Board?

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1 KEN MITCHELL: Well, I think a technical question,
2 Mr. Chairman.

3 BENNY WAMPLER: Mr. Mitchell.

4 KEN MITCHELL: Would you repeat the depth
5 again...the total depth? I'm showing 2,936. Unless my
6 hearing has gone...gone bad, which it does from time to time.
7 I think you said 6,000.

8 TONY WILHOIT: We've got 2,036.

9 DON HALL: I've got 2,036 feet. I may have...may
10 have written that down wrong. Let me double check.

11 KEN MITCHELL: According to the document, the
12 drilling project document, it says 2,936.

13 BENNY WAMPLER: Yeah, your AFE says 2936.

14 TONY WILHOIT: Yeah, 2936.

15 DON HALL: Okay. Yeah, it's 2936. That's what it
16 would be.

17 KEN MITCHELL: Okay. I just wanted to clarify and
18 be sure we were on the right sheet of music.

19 TONY WILHOIT: That's it. Thank you.

20 BENNY WAMPLER: Other questions?

21 BILL HARRIS: Mr. Chairman.

22 BENNY WAMPLER: Mr. Harris.

23 BILL HARRIS: You mentioned earlier that the access
24

1 road would go...at one time, the access road was going across
2 the property, the I. B. McReynolds property.

3 DON HALL: No. No, it's going across the...Mr.
4 Counts who---.

5 BILL HARRIS: Yes.

6 DON HALL: ---presumes to represent. It's a
7 separate piece of property.

8 BILL HARRIS: Well...okay.

9 DON HALL: Not the I. B. McReynolds property.

10 BILL HARRIS: Okay.

11 DON HALL: He owns a separate piece of property in
12 another...another area.

13 BILL HARRIS: So, it's going through that?

14 DON HALL: Yeah.

15 BILL HARRIS: I did have a question about this
16 document, though. This is...well, I'm not sure what this was
17 called. But basically what he's saying is that he's...he's
18 representing those folks that we can't find.

19 DON HALL: Right.

20 BILL HARRIS: Is this normal? I mean, that's like
21 me knowing a piece of property next to me that they've gone
22 someplace and nobody ever traced them. I'll just declare
23 myself as the person who's in charge.

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1 DON HALL: That appears---.

2 BILL HARRIS: I mean, this...I'm not accusing
3 anyone of anything. But I'm just saying this is just real
4 strange.

5 TONY WILHOIT: He has not submitted any evidence
6 that he actually represents anybody. He just says he does.
7 He's not...we've asked him for information to support that,
8 but he has not submitted any of it. So, we went ahead and
9 notified him and published for the unknown people.

10 BENNY WAMPLER: Well, I was going to ask you if,
11 you know, based on this document, would you enter into a
12 lease with him?

13 TONY WILHOIT: I don't think so.

14 DON HALL: We---.

15 TONY WILHOIT: In his individual capacity. But
16 without some sort of evidence of authority to represent other
17 people---.

18 DON HALL: We've talked with him about leasing the
19 property, but that was all subject to him providing us
20 information that he actually did own...actually did represent
21 the proper people.

22 BILL HARRIS: What I find it odd is that he says
23 the known heirs, successors and assignees and that's what you
24

1 all have been looking...those are the folks you all were
2 looking for, aren't they? But he's claiming that they've
3 given him this permission?

4 DON HALL: Yeah.

5 TONY WILHOIT: And he was noticed to be here today
6 and we expected that he might show up.

7 BILL HARRIS: Um...um.

8 JIM MCINTYRE: Who would be responsible then---?
9 If this is put into a pool and the money goes into that
10 escrow account, then who would be responsible for determining
11 whether or not he was the legal...had legal rights to the
12 monies in the pool?

13 TONY WILHOIT: Well, he would still have the burden
14 to prove, some sort of evidence or some authority to act on
15 those parties behalf. He would have to have some power of
16 attorney or some document that he is actually authorized to
17 act in their behalf. Then at that point, we would be
18 authorized to put him on a payee list and then he would be
19 obligated to distribute it to those unknown...or to those
20 people who authorized him. But we have seen nothing of that
21 so far.

22 BOB WILSON: Mr. Chairman.

23 BENNY WAMPLER: Mr. Wilson.

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1 BOB WILSON: I have had some contact with Mr.
2 Counts as well. He has expressed to me his belief since he
3 has this document, he is under no obligation or need to
4 reveal the names of these heirs to anybody else because he's
5 representing them. So, I think there's a genuine impasse
6 here of a sort.

7 BENNY WAMPLER: Is this a document that he
8 produced?

9 DON HALL: Yeah.

10 BENNY WAMPLER: I mean, that's the way it looks to
11 me.

12 TONY WILHOIT: I represent a lot of the Harold
13 Hughes unknown heirs.

14 BILL HARRIS: Yeah, right.

15 TONY WILHOIT: If anybody wants to turn over some
16 money, I'll take it.

17 BENNY WAMPLER: But are your efforts continuing to
18 find the I. B. McReynolds heirs?

19 DON HALL: Yeah, our efforts are continuing with
20 Mr. Counts to get him to tell us who they are at this point.
21 But...yeah, we are continuing.

22 BENNY WAMPLER: Have you talked to any other
23 McReynolds'?

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1 DON HALL: There's not any McReynolds' in Dickenson
2 County to speak of. We can't even find any. But I might
3 talk with Rita---.

4 BENNY WAMPLER: Well, I'm wondering.

5 BILL HARRIS: But, again, let me just...continuing
6 that question, none of the...nothing affects this particular
7 property in terms of...in terms of the road going through or
8 any kind of---?

9 DON HALL: No, we won't be on this piece of
10 property.

11 BILL HARRIS: Because, I mean, I would think that
12 would be---.

13 DON HALL: No, we're not on this---.

14 BILL HARRIS: ---not the thing to do.

15 DON HALL: We have no operations on this piece of
16 property.

17 BILL HARRIS: Thank you.

18 BENNY WAMPLER: Any other questions?

19 (No audible response.)

20 BENNY WAMPLER: Do you have anything further?

21 TONY WILHOIT: That's all, Mr. Chairman.

22 BILL HARRIS: Mr. Chairman, I move for approval of
23 the petition as presented.

24

1 BENNY WAMPLER: I have a motion to approve.
2 KEN MITCHELL: Second.
3 BENNY WAMPLER: Second. Any further discussion?
4 (No audible response.)
5 BENNY WAMPLER: All in favor, signify by saying
6 yes.
7 (All members signify by saying yes.)
8 BENNY WAMPLER: Opposed, say no.
9 (No audible response.)
10 BENNY WAMPLER: You have approval. Thank you.
11 DON HALL: Thank you.
12 TONY WILHOIT: Thank you very much. I appreciate
13 you all letting us go in front of you.
14 DON HALL: Thank you.
15 TONY WILHOIT: Thank you, Mark. By the way, Mr.
16 Kiser is at Naples, Florida. He said he wishes you were
17 there.
18 SHARON PIGEON: Yeah, right.
19 BENNY WAMPLER: Yeah. We appreciate that.
20 (Board confers among themselves.)
21 BENNY WAMPLER: The next item on the agenda is a
22 petition from CNX Gas Company, LLC, for pooling of a coalbed
23 methane unit AW-100, docket number VGOB-03-07/15-1157. We'd
24

1 ask the parties that wish to address the Board in this matter
2 to come forward at this time.

3 MARK SWARTZ: Mark Swartz and Les Arrington.

4 BENNY WAMPLER: Is there any housekeeping here.

5 MARK SWARTZ: If I might, if you could also...I
6 tried to put the Nora units together. There are four of
7 them. This AW-100 is a Nora unit.

8 BENNY WAMPLER: Right.

9 MARK SWARTZ: Docket number three is and docket
10 seven and eight are also Nora units. If you could combine
11 those, that would help us to move it along.

12 BENNY WAMPLER: I'll also call a petition...a
13 continuing petition from CNX Gas Company, LLC, pooling of a
14 coalbed methane unit AX-100, docket number VGOB-03-07/15-
15 1158; and unit BB-102, docket number VGOB-03-07/15-1162; and
16 also unit BB-104, docket number VGOB-03-07/15-1163. We'd ask
17 the parties that wish to address the Board in these matters
18 to come forward at this time.

19 MARK SWARTZ: Mark Swartz and Les Arrington on
20 those as well.

21 BENNY WAMPLER: Mr. Arrington, you need to be
22 sworn. The record will show there are no others.

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LESLIE K. ARRINGTON

having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. Les, could you state your name for us, please?

A. Leslie K. Arrington.

Q. Who do you work for?

A. CNX Gas Company.

Q. Always a tricky question.

A. Not anymore.

Q. What do you do for them?

A. I'm manager of environmental and permitting.

Q. Okay. Did you sign all of the notices of hearing, the four notices of hearing and the four applications with regard to these four Nora units today?

A. Yes, I did.

Q. And were the exhibits with regard to these applications either prepared by you or under your supervision and direction?

A. Yes, they were.

Q. Okay. Are these...are each of these units

1 that the Chairman has called for hearing at this point Nora
2 units?

3 A. Yes, they are.

4 Q. Okay. I'm going to cover the acreages with
5 you because they're slightly different. AW-100 unit is how
6 many acres?

7 A. 58.76.

8 Q. And the AX-100 is?

9 A. 58.77.

10 Q. And the BB-102 unit?

11 A. 58.78.

12 Q. And then lastly the BB-104 unit?

13 A. 57.09.

14 Q. Okay. And with regard to these four units,
15 is there one well proposed?

16 A. Yes.

17 Q. And in each case, is the well in the
18 drilling window?

19 A. Yes, it is.

20 Q. So, there's no requirement of any
21 exceptions?

22 A. That's correct.

23 Q. Okay. And, obviously, these are CBM wells?

24

1 A. Correct.

2 Q. And the intention is to frac them?

3 A. Yes.

4 Q. Okay. Have you listed the folks that you
5 are seeking to pool, the respondents, in the notice of
6 hearing with regard to each of the units?

7 A. Yes, we have.

8 Q. Okay. And are they also listed again in
9 Exhibit B-3?

10 A. Yes, they are.

11 Q. What did you do to notify these people?

12 A. We mailed each one of them by certified
13 mail/return receipt requested on June the 13th of 2003. In
14 AW-100, we published in the Bluefield Daily Telegraph on June
15 the 23rd of 2003.

16 Q. And will you go through the mailing and
17 publication for each one for each one of the units?

18 A. Yes. Mailing for AX-100 was mailed June the
19 13th of 2003, published in the Bluefield Daily Telegraph June
20 the 6th...June the 19th, 2003. BB-102, published in the
21 Bluefield Daily Telegraph June the 24th, 2003 and, again,
22 mailed June the 13th, 2003. BB-104, it was published in the
23 Bluefield Daily Telegraph June the 20th, 2003 and mailed June
24

1 the 13th, 2003.

2 Q. I notice that there are no amended exhibits
3 or revised exhibits?

4 A. That's correct.

5 Q. Okay. And today, have you filed your proofs
6 with regard to the publications?

7 A. Yes, we have.

8 Q. And have you also filed your return/
9 receipts and other information with regard to mailing?

10 A. Yes, we have.

11 Q. And, in general, is it true that you have
12 mailed to everyone that you had an address for?

13 A. We did.

14 Q. Okay. And as we go through these units, we
15 will...we will learn that there are some situations where
16 you've got names but you don't have addresses, so the
17 publication was to reach those folks?

18 A. That's correct.

19 Q. Okay. Who is the applicant with regard to
20 each of these?

21 A. CNX Gas Company.

22 Q. Okay. And is CNX Gas Company a limited
23 liability company?

24

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1 A. Yes, it is.

2 Q. Organized under the laws of the Commonwealth
3 of Virginia?

4 A. Yes, it is.

5 Q. Is it authorized to do business in the
6 Commonwealth?

7 A. Yes.

8 Q. Has it registered with the Department of
9 Mines, Minerals and Energy and does it have a blanket bond on
10 file?

11 A. Yes, it does.

12 Q. And who is it that the applicant is
13 requesting be the Board's operator if these applications are
14 approved?

15 A. CNX Gas Company.

16 Q. Okay. And you don't...I take it you don't
17 want to add any respondents today?

18 A. No.

19 Q. And you don't want to dismiss any folks
20 either?

21 A. No.

22 Q. Okay. With regard...as we get into the
23 testimony here, we will learn that you have leased the vast
24

1 majority of both the oil, gas and coal owners in all four of
2 these units, is that correct?

3 A. That's correct.

4 Q. And what are the terms that you have been
5 offering to those people that you would recommend to the
6 Board to be inserted in any order it might enter?

7 A. The standard coalbed methane lease is a
8 dollar per acre per year with a five year paid up term and a
9 one-eighth production payment.

10 Q. We just heard some testimony where there was
11 a five...five dollar payment.

12 A. Yes.

13 Q. Did you hear that?

14 A. Yes, it was five years.

15 Q. And it was five years. And also I think, if
16 I'm not mistaken, that Equitable leases both CBM and
17 conventional when they pay, correct?

18 A. Yes.

19 Q. Would you be prepared to offer the same
20 terms that you've just described to all of the respondents
21 here?

22 A. Yes, we would.

23 Q. Okay. Let's work through some of the
24

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1 specifics with regard to each of these four units. Let's
2 start with AW-100, okay.

3 A. Okay.

4 Q. And let's look at standing. So, if you
5 could tell the Board what you've been successful in leasing
6 or purchasing and what's outstanding that requires pooling?

7 A. AW-100, we've leased 100% of the coal below
8 the unit. We have a 100% of the coal owners' claim to
9 coalbed methane. We've leased 96.4942% of the oil and gas
10 owners claim to coalbed methane. We're seeking to pool
11 3.5058% of the oil and gas owners claim to coalbed methane.

12 Q. Okay. And this...again in AW-100, we're
13 talking about...the permit has been issued and it's permit
14 number 5681, correct?

15 A. Yes, it is.

16 Q. And what's your estimated cost with regard
17 to this well?

18 A. \$244,982.93, to an estimated depth of 2,659
19 feet.

20 Q. Now, in this unit, AW-100, there is an
21 address unknown issue with regard to Tract 1G, correct?

22 A. That's correct.

23 Q. And then you've filed an Exhibit E dealing
24

1 with escrow because of conflicts?

2 A. Yes.

3 Q. And the tracts that would be...would require
4 some level of escrow or a sub-account are 1B as in Boy, 1D as
5 in David, 1G as in George, 1H as in Henry, and 1K as in
6 Kappa, correct?

7 A. That's correct.

8 Q. And have you also...are there also owners
9 here, conflicting owners, who have entered into split
10 agreements?

11 A. Yes, there is.

12 Q. And have you identified them in Exhibit EE?

13 A. Yes, we have.

14 Q. And are you requesting that the Board allow
15 you to pay...the designated operator allow you to pay those
16 folks who have split agreements directly and not be required
17 escrow there, right?

18 A. Yes, we are.

19 Q. Turning to AX-100, and let's go to standing.
20 What have you been successful in leasing and what is it that
21 you're seeking...what is the interest you're seeking to pool?

22 A. Yes, we have 100% of the coal leased below
23 this unit. A 100% of the coal owners claim to coalbed

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1 methane leased. We have 92.6880% of the oil and gas owners
2 claim to coalbed methane. We're seeking to pool 7.312% of
3 the oil and gas owners claim to coal coalbed methane.

4 Q. Now, this particular unit, AX-100, permit
5 number is 5719, correct?

6 A. Yes, it is.

7 Q. And what is your estimated cost to drill
8 this well?

9 A. \$245,532.86, to an estimated depth of 2,680
10 feet.

11 Q. Okay. Here we have some address unknown
12 issues in Tracts 1B as in Boy and 1D as in David, correct?

13 A. That's correct.

14 Q. So, there would...there would be a
15 requirement for sub-accounts with regard to those tracts for
16 that reason, correct?

17 A. That's correct.

18 Q. And also you have filed an Exhibit E
19 indicating the tracts that would also require sub-accounts
20 because of conflicting claims, is that correct?

21 A. Yes, it is.

22 Q. And those sub-accounts for tracts...for
23 conflicting claims would be 1B as in boy, 1C as in Charlie,

24

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1 1D as in David, 2B as in boy and 2C as in Charlie, correct?

2 A. That's correct.

3 Q. And also we have in this unit, AX-100, there
4 are also some folks who have entered...voluntarily entered
5 into split agreements, correct?

6 A. Yes.

7 Q. And would you again request that any Board
8 order entered here allow you to pay the people identified in
9 Exhibit EE according to their split agreements rather than
10 escrowing funds that might be due them?

11 A. Yes, we would.

12 Q. Okay. With regard to BB-102, what have you
13 leased and what's...what's outstanding that needs to be
14 pooled?

15 A. In BB-102, we have a 100% of the coal leased
16 beneath...beneath the unit; a 100% of the coal owners claim
17 to coalbed methane. We've leased 98.5011% of the oil and gas
18 owners claim to coalbed methane. We're seeking to pool
19 1.4989% of the oil and gas owners claim to coalbed methane.

20 Q. And in BB-102, you have a permit number
21 5619, is that correct?

22 A. That's correct.

23 Q. And what's the estimated cost to drill this
24

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1 well?

2 A. \$236,470.98.

3 Q. To a proposed depth?

4 A. 2208.1

5 BENNY WAMPLER: Now, I understand this well is
6 drilled and completed---?

7 A. Yes, it is.

8 BENNY WAMPLER: ---is that correct?

9 A. I can say it's drilled. Completed I...
10 without the information from the office, I can't answer you.

11 Q. With regard to escrow issues relating to BB-
12 102, there are some folks with unknown addresses in 1K as in
13 Kappa and 1M as in Mary?

14 A. That's correct.

15 Q. You filed an Exhibit E which indicates a
16 need for escrow for conflicting claims, is that correct?

17 A. Exhibit E.

18 Q. Yes.

19 A. And there's also a title issue in Tract 1M.

20 Q. Right. So, the Exhibit E conflicts would
21 require sub-accounts for Tracts 1I as in Iota, 1J as in John,
22 1K as in Kappa, 1M as in Mary and then there's a second
23 reason that you just expressed to escrow for 1M---?

24

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1 A. Yes.

2 Q. ---and that's a title issue?

3 A. Yes, it is.

4 Q. And you have also with regard to BB-102

5 filed an Exhibit EE, is that correct?

6 A. Yes.

7 Q. And in that...with regard to that, you would

8 request that any order entered by the Board here allow you to

9 pay the folks listed in EE who have entered into voluntary

10 split agreements in accordance with the terms of their

11 agreements as opposed to escrowing funds that might be

12 otherwise be due them?

13 A. That's correct.

14 Q. Lastly, with regard to...to sort of finish

15 the Nora units here, BB-104, okay.

16 A. Yes.

17 Q. Let's look at what you've leased here and

18 what's outstanding and needs to be pooled.

19 A. Yes. We have a 100% of the coal leased

20 beneath this unit; a 100% of the coal owners claim to coalbed

21 methane leased; 99.8573% of the oil and gas owners claim to

22 coalbed methane; and we're seeking to pool 0.1427% of the oil

23 and gas owners claim to coalbed methane.

24

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1 Q. This well has permit number 5382, is that
2 correct?

3 A. Yes, it is.

4 Q. And what's your estimated cost with regard
5 to the well in BB-104?

6 A. \$249,505.71, to a depth of 2,737 feet and it
7 was drilled on February the 28th of 2003.

8 Q. Okay, we've got one tract where we've got an
9 address unknown, correct?

10 A. That's correct.

11 Q. And that's 4C as in Charlie?

12 A. Yes.

13 Q. And then we have some conflicts and there's
14 an Exhibit E that was filed with regard to that?

15 A. Yes, it is.

16 Q. And that would...those would require sub-
17 accounts for conflicts for Tracts 4A as in apple, 4B as in
18 boy and 4C as in Charlie, correct?

19 A. That's correct.

20 Q. And there are no split agreements with
21 regard to this unit?

22 A. Correct.

23 Q. Is it your opinion that the plans for
24

1 development of the coalbed methane below these four Nora
2 units as disclosed by the applications and exhibits is a
3 reasonable plan to do that?

4 A. Yes, it is.

5 Q. And that in the event that the Board would
6 pool these units and you couple the terms of the pooling
7 order with the voluntary agreements you've obtained, would it
8 be your opinion that the correlative rights of all of the
9 interested parties would be protected?

10 A. Yes, it would.

11 MARK SWARTZ: That's all I have, Mr. Chairman.

12 BENNY WAMPLER: Questions from members of the
13 Board?

14 (No audible response.)

15 BENNY WAMPLER: This well has also been drilled?

16 LESLIE K. ARRINGTON: It has. Uh-huh.

17 BOB WILSON: Mr. Chairman.

18 BENNY WAMPLER: Mr. Wilson.

19 BOB WILSON: Did we get proof of mailing and
20 affidavits for BB-104 and BB-102?

21 MARK SWARTZ: I can lend you mine.

22 (Bob Wilson reviews the documents.)

23 BENNY WAMPLER: Questions.

24

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1 BILL HARRIS: Mr. Chairman, nothing major, but I
2 did have a question about---.

3 BENNY WAMPLER: Mr. Harris.

4 BILL HARRIS: ---the spelling of Kernersville,
5 North Carlina. I believe there's an S in that unless there's
6 a different...maybe there's a Kernerville and a Kernersville.
7 But I had some friends that live down in there and there is
8 an S in Kernersville. I can't remember which one I saw that
9 in. I was thinking it was...I think it's AX...AX-100. The
10 nos, I think, on...I think it's page 11 of 114...I'm sorry,
11 11 of 14 in Exhibit E. That's a just a minor thing. You all
12 might just want to make that correction.

13 MARK SWARTZ: So, you think there's an S
14 Kernersville?

15 BILL HARRIS: Yes, I'm pretty sure there is. Page
16 eight?

17 KEN MITCHELL: Page eight, also.

18 BILL HARRIS: Page eight, also.

19 LESLIE K. ARRINGTON: And we got it right on the
20 green cards.

21 BILL HARRIS: Oh, okay. I didn't look there.

22 BENNY WAMPLER: So, your notice...actual notice was
23 correct?
24
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1 LESLIE K. ARRINGTON: Yes, it was and they signed
2 for the package.

3 BILL HARRIS: Okay. That's all I have.

4 BENNY WAMPLER: Other questions from members of the
5 Board?

6 (No audible response.)

7 BENNY WAMPLER: On these two wells that have been
8 drilled, and you have your AFEs here, here again, we've from
9 time to time shown interest in how close the estimated and
10 actual are. Do you by any chance have the actual cost of
11 drilling of those wells?

12 LESLIE K. ARRINGTON: Not at this time. I don't
13 have it with me. Can I get that? Yes, I can. One thing
14 that you'll notice in our cost, you'll notice in our cost
15 anymore, there's an extra string of seven inch casing.

16 BENNY WAMPLER: Right.

17 LESLIE K. ARRINGTON: Our field personnel feel that
18 they need to use that at many times for their own feeling of
19 safety. They do add an extra seven inch string.

20 BENNY WAMPLER: Safety from what standpoint?

21 LESLIE K. ARRINGTON: They just feel that...well,
22 for one thing...well, I said safety, and water. We have
23 started to add an seven inch string in case we get down to
24

1 the top of the producing zones. It will produce an open hole
2 at times. They set that seven string and the majority...99%
3 of time, that seven inch string is just there. If they do
4 hit an open flow, then they've already got their seven string
5 in and that's what we produce from.

6 BENNY WAMPLER: Other questions from members of the
7 Board?

8 (No audible response.)

9 BENNY WAMPLER: Do you have anything further?

10 MARK SWARTZ: No.

11 BENNY WAMPLER: Is there a motion?

12 KEN MITCHELL: Motion for approval, Mr. Chairman.

13 BENNY WAMPLER: Is there a second?

14 JIM MCINTYRE: Second.

15 BENNY WAMPLER: Motion and second. Any further
16 discussion?

17 (No audible response.)

18 BENNY WAMPLER: All in favor, signify by saying
19 yes.

20 (All members signify by saying yes.)

21 BENNY WAMPLER: Opposed, say no.

22 (No audible response.)

23 BENNY WAMPLER: You have approval. The next item
24

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1 on the agenda is a petition from CNX Gas Company, LLC for
2 pooling of a coalbed methane unit AX-117, docket number VGOB-
3 03-07/15-1159. We'd ask the parties that wish to address the
4 Board in this matter to come forward at this time.

5 MARK SWARTZ: Mark Swartz and Les Arrington. And,
6 Mr. Chairman, I would also ask...we actually have...this is a
7 Middle Ridge unit. We also have another one, AX-118, which
8 is docket item five.

9 BENNY WAMPLER: Okay. I'll go ahead and call that.
10 Also, unit AX-118, docket number VGOB-03-07/15-1160. The
11 record will show there are no others. You may proceed.

12

13 LESLIE K. ARRINGTON

14 DIRECT EXAMINATION

15 QUESTIONS BY MR. SWARTZ:

16 Q. Les, I'll just remind you that you're still
17 under oath.

18 A. Yes.

19 Q. You need to state your name again.

20 A. Leslie K. Arrington.

21 Q. Who do you work for?

22 A. CNX Gas Company, LLC.

23 Q. And what do you do for them?

24

--

1 A. Manager of environmental and permitting.

2 Q. Okay. The applicant in both of these units

3 is CNX Gas Company, is that correct?

4 A. Yes.

5 Q. Okay. And are these Middle Ridge I units?

6 A. Yes, they are.

7 Q. And both of them contain 58.74 acres, is

8 that correct?

9 A. That's correct.

10 Q. And the proposal is that there be one well

11 in each unit?

12 A. Yes.

13 Q. And as indicated by the plats here, that

14 well location is actually in the drilling window in both of

15 these units?

16 A. Yes, it is.

17 Q. So, there is no requirement that you obtain

18 any leave or exception here?

19 A. Correct.

20 Q. Are the folks that you're seeking to pool

21 listed in the notice of hearing?

22 A. Yes, they are.

23 Q. And are they listed again in the Exhibit B-

24

1 3?

2 A. Yes, they are.

3 Q. What did you do to notify these folks of
4 this hearing today?

5 A. It was mailed by certified mail/return
6 receipt requested on June the 13th, 2003. AX-117 was
7 published in the Bluefield Daily Telegraph on June the 21st
8 and June the 26th due to a typographical error we had in our
9 notice of hearing. AX-118 was published in the Bluefield
10 Daily Telegraph on June the 24th of 2003.

11 Q. Do you want to add any respondents or
12 dismiss any respondents today?

13 A. No.

14 Q. Okay. Have you provided to the Board this
15 morning proof with regard to the publication of the notices
16 in each of these units...with regard to each of these units
17 and your proofs with regard to the mailing that occurred and
18 the cards and so forth?

19 A. Yes, we have.

20 Q. And is it true that there...the only revised
21 exhibit today with regard to these units is the one that you
22 just mentioned, the revised publication with regard to a typo
23 in the notice?

24

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1 A. Yes, it was.

2 Q. And that pertains to AX-117 and you've

3 provided that as Exhibit Number Four this morning?

4 A. Yes, we have.

5 Q. Is CNX Gas Company a limited liability

6 company?

7 A. Yes, it is.

8 Q. Is it a company that was organized under the

9 laws of the Commonwealth of Virginia?

10 A. Yes, it is.

11 Q. Is CNX Gas Company authorized to do business

12 in the Commonwealth?

13 A. Yes, it is.

14 Q. Has it registered with the DMME and does it

15 have a blanket bond on file?

16 A. Yes, it does.

17 Q. Who is it that you're requesting be

18 appointed the Board's operator if these applications are

19 approved?

20 A. CNX Gas Company.

21 Q. When we get into standing here, we will

22 learn that you have leased the majority...either leased or

23 purchased the majority of the interest in both of these

24

1 units. What terms have you offered the folks that you've
2 been able to reach agreements with?

3 A. Our standard coalbed methane lease is a
4 dollar per acre per year with a five year paid up term and
5 with a one-eighth production payment.

6 Q. Or royalty?

7 A. Royalty, yes.

8 Q. Okay. Are you recommending those terms to
9 the Board with regard to any order they might enter?

10 A. Yes, we are.

11 Q. Okay. Let's turn to the Exhibit A, page
12 two, with regard to standing concerning AX-117 and would you
13 tell the Board what you have been able to acquire and what's
14 outstanding that needs to be pooled?

15 A. We have 100% of the coal leased beneath this
16 unit; a 100% of the coal owners claim to coalbed methane;
17 99.9147% of the oil and gas owners claim to coalbed methane.
18 We're seeking to pool 0.0853% of the oil and gas owners
19 claim to the coalbed methane.

20 Q. And this...in this unit you have received
21 permit 5218, is that correct?

22 A. That's correct.

23 Q. And what is the well cost here?

24

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1 A. \$250,098.41.

2 Q. And the total depth of the well?

3 A. 2,440 feet.

4 Q. Okay. There is an address unknown issue in

5 Tract 2A as in apple, correct?

6 A. That's correct.

7 Q. And you filed an Exhibit E, is that correct?

8 A. We have.

9 Q. Okay. And with regard to Exhibit E there

10 are conflicts in Tracts 2A as in apple, B as in...2B as in

11 boy and 2D as in David, is that correct?

12 A. Correct.

13 Q. And then in Tract 2D, as in David, there is

14 also a title issue which needs to be resolved. So, there's a

15 second reason for escrow there?

16 A. In 2D, yes, there is.

17 Q. Okay. And then there is an Exhibit EE with

18 regard to this unit?

19 A. Yes, it is.

20 Q. And that indicates that some folks have

21 voluntarily agreed to split royalties?

22 A. Yes, they have.

23 Q. And are you requesting that any Board order

24

1 entered allow the operator to pay those people directly in
2 accordance with the terms of their split agreements?

3 A. Yes.

4 Q. With regard now to AX-118, if you would turn
5 to Exhibit A, page two, and tell the Board what you've
6 acquired and what remains outstanding from the extremely
7 difficult to deal with Commonwealth of Virginia.

8 A. We've leased 97.3613% of the coal beneath
9 unit and 97.3613% of the coal, oil and gas owners claim to
10 coalbed methane. Seeking to pool 2.2687% of the coal, oil
11 and gas.

12 Q. And the coal...oh, coal, oil and gas.
13 You're absolutely right. I'm sorry. With regard to this
14 unit, you have a permit 5453?

15 A. That's correct.

16 Q. And what is...what is the cost for the well?

17 A. \$243,237.66, estimated to a depth of 2,434.8
18 feet.

19 Q. Okay, it sounds like that one is drilled?

20 A. Yes.

21 Q. Okay. There is a...there are conflicts in
22 Tracts 6B as in boy, correct?

23 A. That's correct.

24

--

1 Q. So, that would be the only reason for escrow
2 here, correct?

3 A. Correct.

4 Q. And you've filed an Exhibit EE?

5 A. We have.

6 Q. And that would indicate that some folks have
7 voluntarily entered into royalty split agreements?

8 A. Correct.

9 Q. And are you requesting that any Board order
10 entered allow you to pay those people directly in accordance
11 with the terms of their agreements?

12 A. Yes, we are.

13 Q. Is it your opinion that the plan for
14 development, namely one frac well in the drilling window of
15 each of these units, is a reasonable plan to develop the
16 coalbed methane from these two Nora units?

17 A. Yes, it is.

18 Q. And if you take collectively the leases and
19 other agreements that you've been able to reach on a
20 voluntary basis with the claimants and owners and combine
21 that with a pooling order dealing with the outstanding
22 interest, would it be your opinion that in combination that
23 would protect the correlative rights of all owners and
24

1 claimants?

2 A. Yes, it would.

3 MARK SWARTZ: That's all I have, Mr. Chairman.

4 BENNY WAMPLER: Questions from members of the

5 Board?

6 (No audible response.)

7 BENNY WAMPLER: Who are the owners of the coal that

8 you can't lease?

9 LESLIE K. ARRINGTON: That's in AX-118, I believe.

10 That's the Commonwealth.

11 BENNY WAMPLER: All of it is the Commonwealth?

12 MARK SWARTZ: It looks like the Commonwealth owns

13 all the minerals. Yes, Tract 5, the oil and gas and the

14 coal. Offhand, do you know what that road is? Is it 632?

15 Is that what it is?

16 LESLIE K. ARRINGTON: If that's what it says.

17 MARK SWARTZ: Yeah.

18 BENNY WAMPLER: If I'm looking on AX-118, B-3, the

19 percent in the unit is 2.6387. What am I missing?

20 LESLIE K. ARRINGTON: Yeah, there's an error there

21 someplace.

22 BENNY WAMPLER: Yeah.

23 LESLIE K. ARRINGTON: We'll correct whichever one

24

1 is---.

2 MARK SWARTZ: It's got to be...well, if you add the
3 97.3, it's the 68.

4 BENNY WAMPLER: 6387?

5 MARK SWARTZ: I'm sorry, it's the 6387 and not the
6 68. So, I'm suspecting the B-3 is right and the A, page two
7 is wrong.

8 BOB WILSON: According to my calculator, it should
9 be 2.6387 as shown on Exhibit B-3.

10 LESLIE K. ARRINGTON: We'll send in a revised A2.

11 BENNY WAMPLER: Okay. Other questions from members
12 of the Board?

13 (No audible response.)

14 BENNY WAMPLER: Do you have anything further, Mr.
15 Swartz?

16 MARK SWARTZ: No.

17 KEN MITCHELL: Motion for approval, Mr. Chairman.

18 BENNY WAMPLER: Motion to approve. Any second?

19 JIM MCINTYRE: Second.

20 BENNY WAMPLER: Second. Any further discussion?

21 (No audible response.)

22 BENNY WAMPLER: All in favor, signify by saying
23 yes.

24

1 (All members signify by saying yes.)

2 BENNY WAMPLER: Opposed, say no.

3 (No audible response.)

4 BENNY WAMPLER: You have approval. The last item
5 on the agenda is a petition from CNX Gas Company, LLC, for
6 pooling of a coalbed methane unit BB-34, docket number VGOB-
7 03-07/15-1161. We'd ask the parties that wish to address the
8 Board in this matter to come forward at this time.

9 MARK SWARTZ: Mark Swartz and Les Arrington again.

10 BENNY WAMPLER: The record will show there are no
11 others. You may proceed.

12

13 LESLIE K, ARRINGTON

14 DIRECT EXAMINATION

15 QUESTIONS BY MR. SWARTZ:

16 Q. Les, you need to state your name for us
17 again?

18 A. Leslie K. Arrington.

19 Q. Who do you work for?

20 A. CNX Gas Company.

21 Q. What do you do for them?

22 A. Manager of environmental and permitting.

23 Q. Again, did you sign both the notice of
24

--

1 hearing and the application with regard to this pooling
2 application?

3 A. Yes, I did.

4 Q. And were these documents and the related
5 exhibits prepared either by you or under your supervision?

6 A. Yes, they were.

7 Q. This is an Oakwood I unit, is that correct?

8 A. Yes.

9 Q. And it's an 80 acre unit?

10 A. Yes, it is.

11 Q. And the plan here would be to drill one frac
12 well in this unit?

13 A. Yes.

14 Q. And as the plat demonstrates, this well is
15 located in the window?

16 A. Yes, it is.

17 Q. Okay. There's one respondent listed in the
18 notice of hearing?

19 A. That's correct.

20 Q. And I assume also on Exhibit B-3?

21 A. Correct.

22 Q. What did you do to notify Mr. Stillwell
23 about this hearing today?

24

1 A. It was mailed on June the 13th of 2003,
2 published in the Bluefield Daily Telegraph on June the 24th
3 of 2003.

4 Q. And did you file today with the Board proofs
5 of publication and with regard to mailing?

6 A. Yes, we did.

7 Q. As we will see when we get into the exhibits
8 here, you have leased virtually...well, almost 99% of this
9 unit, correct?

10 A. Correct.

11 Q. And what are the terms that you have offered
12 the folks that you have been able to reach an agreement with?

13 A. For a coalbed methane lease, it's a dollar
14 per acre per year with a one-eighth royalty payment.

15 Q. And would you offer those same terms to Mr.
16 Stillwell if they were...if he was interested?

17 A. Yes.

18 Q. Okay. Do you want to add anybody or dismiss
19 anybody?

20 A. No.

21 Q. If we'll go to Exhibit A, page two, would
22 you tell the Board what you've been able to lease and what
23 you're seeking to pool?

24

1 A. We've leased 98.65% of the coal below the
2 unit and 98.65% of the coal, oil and gas beneath this coalbed
3 methane beneath this unit. We're seeking to pool 1.35% of
4 the coal, oil and gas---.

5 Q. Claims?

6 A. ---owners claims.

7 Q. Okay. The...you've got a permit here, 4543,
8 correct?

9 A. That's correct.

10 Q. And what's...what's the situation with
11 regard to projected well cost?

12 A. Projected well cost is \$229,718.20 to a
13 depth of 1,960 feet.

14 Q. There is no escrow required with this unit,
15 is that correct?

16 A. Correct.

17 Q. As demonstrated by the filing, this...the
18 development plan here is one well in an 80 acre Oakwood unit.
19 It is your opinion that that represents a reasonable plan to
20 develop the coalbed methane within this unit for the...for
21 the affected owners?

22 A. Yes, it is.

23 Q. If you couple the lease arrangements and
24

1 other agreements that you've been able to obtain on a
2 voluntary basis with the pooling order here dealing with Mr.
3 Stillwell's outstanding claim, would it be your view that in
4 that event all of the correlative rights of all of the owners
5 and claimants would be protected?

6 A. Yes, it would.

7 MARK SWARTZ: That's all I have.

8 BENNY WAMPLER: Questions from members of the
9 Board?

10 (No audible response.)

11 BENNY WAMPLER: I'm going to ask a question that
12 probably covers a number of cases we've had today, but from
13 the legal perspective, you have a number of unknown surface
14 owners in here listed---.

15 MARK SWARTZ: Okay.

16 BENNY WAMPLER: ---that you're not proposing to
17 escrow anything---.

18 MARK SWARTZ: Right.

19 BENNY WAMPLER: ---identify them in anyway or in
20 any form or fashion. Is it your opinion that the Court case
21 that's currently on the books under appeal would change that?

22 MARK SWARTZ: No. The Court had some difficulty
23 describing what he was doing. But as I understand the
24

1 opinion, if surface owners also had a mineral interest,
2 that's what he was...that was what he was determining in that
3 case. So, the Buchanan County case that's on appeal,
4 although I tried to persuade him not to use the term surface
5 owner because I felt it was misleading, those people actually
6 had mineral interest. He called them surface.

7 BENNY WAMPLER: I understand.

8 MARK SWARTZ: So, I mean, as far as...you know,
9 as...to the extent you're soliciting a legal thought from me,
10 okay, my legal thought is---.

11 BENNY WAMPLER: I am specifically for this. For
12 these unknown surface owners, do you...in your opinion, based
13 on that case, are these folks specifically not required to be
14 listed?

15 MARK SWARTZ: If they not also listed under a
16 category coal owner or gas and oil owner, as far as we're
17 concerned, they don't have, at least at this point under the
18 law of the Commonwealth, a claim. Unless they show up on our
19 doorstep. I mean, anybody who walks in the door and makes a
20 claim, we join it. I mean, that has been our practice. But
21 in terms of doing record title, we don't think they have
22 record title.

23 BENNY WAMPLER: What efforts have you made to
24

1 determine who those surface owners are, Les?

2 LESLIE K. ARRINGTON: If I have no surface
3 activities in particular on those tracts and if that tract is
4 overtop of a tract that we know the mineral/oil and gas, coal
5 owners, we do not determine the surface owner.

6 MARK SWARTZ: So, the answer would be none?

7 LESLIE K. ARRINGTON: None. And you will see that
8 throughout our applications.

9 BENNY WAMPLER: Other questions from members of the
10 Board?

11 (No audible response.)

12 BENNY WAMPLER: Do you have anything further?

13 MARK SWARTZ: No, I don't.

14 BENNY WAMPLER: Is there a motion?

15 KEN MITCHELL: Motion for approval, Mr. Chairman.

16 JIM MCINTYRE: Second.

17 BENNY WAMPLER: Motion and second. Any further
18 discussion?

19 (No audible response.)

20 BENNY WAMPLER: All in favor, signify by saying
21 yes.

22 (All members signify by saying yes.)

23 BENNY WAMPLER: Opposed, say no.

24

1 (No audible response.)

2 BENNY WAMPLER: You have approval.

3 MARK SWARTZ: I'm sorry to keep you.

4 BENNY WAMPLER: That's the way it goes.

5 BOB WILSON: Mr. Chairman.

6 BENNY WAMPLER: Mr. Wilson.

7 BOB WILSON: Let me ask a question for the Board

8 members. Other applicants, when they submit their affidavit

9 of due diligence and their return receipt and publications

10 and that sort thing, merely submit a copy for the Board

11 files. Unless the Board members specifically needs to see

12 this stuff...these folks do a lot of copying and use a lot a

13 paper and time and such. Unless the Board members really

14 need to see this, I think we could probably get by with just

15 a copy for the file.

16 MASON BRENT: Yeah, and just testimony that it has

17 been done.

18 LESLIE K. ARRINGTON: Okay.

19 MARK SWARTZ: That's fine with us.

20 LESLIE K. ARRINGTON: Yeah, that's fine. Thanks.

21 KEN MITCHELL: I'm very comfortable with that.

22 MASON BRENT: Mr. Chairman, do you need to approve

23 the minutes of your last---?

24

1 BENNY WAMPLER: Yes, we do. Thanks. I think you
2 all have the minutes and the results of the hearing on June
3 the 17th. Any question or comments? If not, I'd ask a
4 motion for approval.

5 KEN MITCHELL: Mr. Chairman, I will abstain. I was
6 absent that day. I was sick. So, I will abstain from voting
7 either way because it would be inappropriate.

8 JIM MCINTYRE: Motion to approve.

9 BENNY WAMPLER: Motion to approve. Second?

10 BILL HARRIS: Second.

11 BENNY WAMPLER: Motion and second. Any further
12 discussion?

13 (No audible response.)

14 BENNY WAMPLER: All in favor, signify by saying
15 yes.

16 (All members signify by saying yes.)

17 BENNY WAMPLER: Opposed, say no.

18 MASON BRENT: Abstain.

19 BENNY WAMPLER: Couple of abstentions. Approval
20 overall. Thank you. Mr. Wilson, do you have anything
21 further?

22 BOB WILSON: No, sir.

23 BENNY WAMPLER: Thank you very much.

24

1 (Off record per Chairman.)

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5 STATE OF VIRGINIA,

6 COUNTY OF BUCHANAN, to-wit:

7 I, SONYA MICHELLE BROWN, Court Reporter and Notary

8 Public for the State of Virginia, do hereby certify that the

9 foregoing hearing was recorded by me on a tape recording

10 machine and later transcribed by me personally.

11 Given under my hand and seal on this the 6th day of

12 August, 2003.

13

NOTARY PUBLIC

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My commission expires: August 31, 2005.

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